

TAIWAN SECURITY ENHANCEMENT ACT

OCTOBER 28, 1999.—Ordered to be printed

Mr. GILMAN, from the Committee on International Relations,
submitted the following

R E P O R T

[To accompany H.R. 1838]

The Committee on International Relations, to whom was referred the bill (H.R. 1838) to assist in the enhancement of the security of Taiwan, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Taiwan Security Enhancement Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Since 1949, the close relationship between the United States and Taiwan has been of enormous benefit to both societies.

(2) In recent years, Taiwan has undergone a major political transformation, and Taiwan is today a true multiparty democracy with a political system separate from and totally unlike that of the People’s Republic of China.

(3) The economy of Taiwan is based upon free market principles and is separate and distinct from the People’s Republic of China.

(4) Although on January 1, 1979, the United States Government withdrew diplomatic recognition of the government on Taiwan as the legitimate government of China, neither at that time nor since has the United States Government adopted a formal position as to the ultimate status of Taiwan other than to state that status must be decided by peaceful means. Any determination of the ultimate status of Taiwan must have the express consent of the people on Taiwan.

(5) The People’s Republic of China refuses to renounce the use of force against democratic Taiwan.

(6) The Taiwan Relations Act has been instrumental in maintaining peace, security, and stability in the Taiwan Strait and the Western Pacific since its enactment in 1979.

(7) The Taiwan Relations Act (Public Law 96-8) states that—

(A) peace and stability in the Taiwan Strait area are in the political, security, and economic interests of the United States and are of international concern;

(B) the decision of the United States to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

(C) the United States would consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific region and of grave concern to the United States;

(D) the United States will maintain the capacity to resist any form of coercion that jeopardizes the security, or the social or economic system, of the people of Taiwan; and

(E) the preservation and enhancement of the human rights of all people on Taiwan are objectives of the United States.

(8) The Taiwan Relations Act establishes on the part of the United States a continuing connection with and concern for Taiwan and its people. Continued adherence to the Act will help Taiwan to maintain its democracy free of coercion and to safeguard its people from the use of force against them. Furthermore, the maintenance by Taiwan of forces adequate for its defense is in the interest of the United States in that it helps to maintain peace in the Western Pacific region.

(9) The military modernization and weapons procurement efforts by the People's Republic of China, as documented in the February 1, 1999, report by the Secretary of Defense on "The Security Situation in the Taiwan Strait", could threaten cross-Strait stability and United States interests in the Asia-Pacific region.

(10) The Taiwan Relations Act provides explicit guarantees that the United States will make available defense articles and services necessary in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

(11) The Taiwan Relations Act requires timely reviews by United States military authorities of Taiwan's defense needs in connection with recommendations to the President and the Congress.

(12) Congress and the President are committed by the Taiwan Relations Act to determine the nature and quantity of Taiwan's legitimate self-defense needs.

(13) It is the policy of the United States to reject any attempt to curb the provision by the United States of defense articles and services legitimately needed for Taiwan's self-defense.

(14) In accordance with the Taiwan Relations Act, the United States has, since 1979, sold defensive weapons to Taiwan, and such sales have helped Taiwan maintain its autonomy and freedom. The Congress supports the continued provision of additional defense articles and defense services in accordance with the Taiwan Relations Act.

(15) It is in the national interest of the United States to eliminate ambiguity and convey with clarity continued United States support for Taiwan, its people, and their ability to maintain their democracy free from coercion and their society free from the use of force against them. Lack of clarity could lead to unnecessary misunderstandings or confrontations between the United States and the People's Republic of China, with grave consequences for the security of the Western Pacific region.

(16) A possible consequence of such ambiguity and lack of clarity was the People's Republic of China's decision to conduct military exercises and live fire missile tests in the Taiwan Strait in March 1996, necessitating House Concurrent Resolution 148, approved by the House of Representatives by a vote of 369-14 on March 19, 1996, and by the Senate by a vote of 97-0 on March 21, 1996, which stated that "the United States, in accordance with the Taiwan Relations Act and the constitutional process of the United States, and consistent with its friendship with and commitment to the democratic government and people of Taiwan, should assist in defending them against invasion, missile attack, or blockade by the People's Republic of China.". Immediately following Congressional passage of House Concurrent Resolution 148, the United States deployed on an emergency basis two aircraft carrier battle groups to the Taiwan Strait, after which the People's Republic of China ceased further planned military exercises.

(17) An earlier consequence of such ambiguity and lack of clarity was the expressed surprise by the People's Republic of China that Congress and the American people fully supported President Lee Teng-hui's private visit to his alma

mater, Cornell University, necessitating House Concurrent Resolution 53, approved by the House of Representatives by a vote of 390–0 on May 2, 1995, and by the Senate by a vote of 97–1 on May 9, 1995, which stated such support explicitly.

SEC. 3. TRAINING OF MILITARY OFFICERS AND SALE OF DEFENSE ARTICLES AND SERVICES TO TAIWAN.

(a) **TRAINING OF TAIWAN MILITARY OFFICERS.**—The Secretary of Defense and the Secretaries of the military departments shall make every effort to reserve additional positions for Taiwan military officers at the National Defense University and other professional military education schools specified in section 2162(d) of title 10, United States Code, and for prospective Taiwan military officers at the United States Military Academy, the United States Naval Academy, and the Air Force Academy.

(b) **FOREIGN MILITARY SALES.**—The Secretary of State shall, when considering foreign military sales to Taiwan—

(1) take into account the special status of Taiwan, including the defense needs of Taiwan in response to the military modernization and weapons procurement efforts by the People's Republic of China; and

(2) make every effort to ensure that Taiwan has full and timely access to price and availability data for defense articles and defense services.

SEC. 4. DETERMINATIONS OF DEFENSE NEEDS OF TAIWAN.

(a) **INCREASE IN TECHNICAL STAFF OF THE AMERICAN INSTITUTE IN TAIWAN.**—Upon the request of the Defense Security Cooperation Agency, the President shall use funds available to the Department of Defense under the Arms Export Control Act for the employment of additional technical staff at the American Institute in Taiwan.

(b) **ANNUAL REPORTS.**—Beginning 60 days after the next round of arms talks between the United States and Taiwan, and annually thereafter, the President shall submit a report to Congress, in classified and unclassified form—

(1) detailing each of Taiwan's requests for purchase of defense articles and defense services during the one-year period ending on the date of the report;

(2) describing the defense needs asserted by Taiwan as justification for those requests; and

(3) describing the decision-making process used to reject, postpone, or modify any such request.

SEC. 5. STRENGTHENING THE DEFENSE OF TAIWAN.

(a) **MAINTENANCE OF SUFFICIENT SELF-DEFENSE CAPABILITIES OF TAIWAN.**—Congress finds that any determination of the nature or quantity of defense articles or defense services to be made available to Taiwan that is made on any basis other than section 3(b) of the Taiwan Relations Act (22 U.S.C. 3302(b)), whether such alternative basis is the August 17, 1982, communique signed with the People's Republic of China, or any similar executive agreement, order, or policy, would violate the intent of Congress in the enactment of such Act.

(b) **COMBINED TRAINING AND PERSONNEL EXCHANGE PROGRAMS.**—Not later than 210 days after the date of enactment of this Act, the Secretary of Defense shall implement a plan for the enhancement of programs and arrangements for operational training and exchanges of senior officers between the Armed Forces of the United States and the armed forces of Taiwan for work in threat analysis, doctrine, force planning, operational methods, and other areas. At least 30 days prior to such implementation, the Secretary of Defense shall submit the plan to Congress, in classified and unclassified form.

(c) **REPORT REGARDING MAINTENANCE OF SUFFICIENT SELF-DEFENSE CAPABILITIES.**—Not later than 45 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Congress, in classified and unclassified form, an annual report on the security situation in the Taiwan Strait. Such report shall include an analysis of the military forces facing Taiwan from the People's Republic of China, evaluating recent additions to the offensive military capability of the People's Republic of China. The report shall include, but not be limited to, an analysis of the surface and subsurface naval threats, the ballistic missile threat, the air threat, and the threat to the military and civilian communications links in Taiwan. The report shall include a review of the steps taken by the armed forces of Taiwan to address its security situation.

(d) **COMMUNICATIONS BETWEEN UNITED STATES AND TAIWAN MILITARY COMMANDS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall certify to the Committee on International Relations and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate

that direct secure communications exist between the armed forces of the United States and the armed forces of Taiwan.

(e) **RELATION TO ARMS EXPORT CONTROL ACT.**—Nothing in this section supersedes or modifies the application of section 36 of the Arms Export Control Act to the sale of any defense article or defense service under this section.

SEC. 6. REPORT REGARDING THE ABILITY OF THE UNITED STATES TO RESPOND IN ASIA-PACIFIC CONTINGENCIES THAT INCLUDE TAIWAN.

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, and updated as appropriate, the Secretary of Defense shall prepare and submit to the chairmen and ranking minority members of the Committee on International Relations and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report in classified and unclassified form on the ability of the United States to successfully respond to a major contingency in the Asia-Pacific region where United States interests on Taiwan are at risk.

(b) **CONTENTS.**—The report described in subsection (a) shall include—

(1) a description of planning on the national, operational, and tactical levels to respond to, prosecute, and achieve United States strategic objectives with respect to a major contingency described in subsection (a); and

(2) a description of the confidence level of the Secretary of Defense in United States military capabilities to successfully respond to such a contingency.

(c) **PREPARATION OF REPORT.**—In preparing the report under subsection (a), the Secretary of Defense shall use the resources and expertise of the relevant unified commands, military departments, the combat support agencies, and the defense components of the intelligence community, as required, and other such entities within the Department of Defense as the Secretary considers necessary.

BACKGROUND AND PURPOSE

H.R. 1838, the Taiwan Security Enhancement Act, was introduced on May 18, 1999, by Mr. DeLay of Texas and 14 other original cosponsors. This bill provides assistance in enhancing the security of Taiwan, and for other purposes.

Since the 1979 Taiwan Relations Act (Pub. L. 96–8), the United States has been committed to Taiwan’s legitimate defense needs and a peaceful resolution to the Taiwan question. The Taiwan Relations Act declares that “any effort to determine the future of Taiwan by other than peaceful means * * * (is) a threat to the peace and security of the Western Pacific area and of grave concern to the United States.” The Act goes on further to say that the United States will “make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capacity.” In 1995 and 1996, the People’s Republic of China (PRC) launched ballistic missiles over and around Taiwan in an effort at coercive diplomacy. This month in Shanghai, Chinese Premier Zhu Rongji stated that sooner or later, the Taiwan question would have to be resolved—by force if necessary—because the Chinese people would become impatient. This has led to increasing concern about the PRC’s security policy and intentions towards Taiwan.

This concern is buttressed by the PRC’s robust military modernization efforts, especially those weapons systems well-suited for power projection over Taiwan. China has deployed a significant number of short-range ballistic missiles opposite Taiwan. The PRC has purchased advanced Russian SU–27 fighters, Sovremennyy-class destroyers equipped with the advanced surface-to-surface SUNBURN missiles, and KILO-class diesel submarines. In addition, Beijing has refused to renounce the use of force against Taiwan.

Many are concerned as well about the Clinton Administration's handling of Taiwan policy in general, but especially: its unwillingness to sell some defensive weapon systems to Taiwan irrespective of China's military advances; its talk of a "strategic partnership" with Beijing; its movement in the direction of Beijing's definition of "one China;" and the impact these actions have for peace and stability across the Taiwan Strait.

The United States should, without question, continue to steadfastly meet its security commitments to Taipei, as stipulated in the 1979 Taiwan Relations Act. This means assisting Taiwan to maintain the balance of power across the Taiwan Strait in the face of the PRC's unprecedented military build-up. A failure to meet Taiwan's legitimate defense needs will make China's military dominance of the Taiwan Strait a reality. An unwillingness to provide for Taiwan's legitimate defense needs could: lead to Beijing's misunderstanding of American interests; foster perceptions of Taiwanese defense vulnerability; increase the likelihood of Chinese miscalculation; and ultimately lead to conflict with the United States. Ensuring and enhancing Taiwan's ability to defend itself increases the prospects for continued peace and stability in Northeast Asia, and supports U.S. national interests.

Unfortunately, China continues to refuse to renounce the use of force against Taiwan, and Zhu's recent comments make that threat all the more ominous. Therefore, the United States should continue to meet its security commitments to Taipei under the 1979 Taiwan Relations Act. A failure to meet Taiwan's legitimate defense needs will make China's military dominance of the Taiwan Strait a reality.

Beijing's perceptions of Taiwan's growing defense vulnerability could increase the likelihood of military action against the island by the PRC. Enhancing Taiwan's ability to defend itself promotes U.S. security interests in the region, and may convince China that a peaceful resolution to the Taiwan question is the prudent route. Many believe that there is a growing threat to that peace and stability from the increasingly assertive foreign policy of the PRC towards Taiwan.

COMMITTEE ACTION

H.R. 1838, the Taiwan Security Enhancement Act, was introduced on May 18, 1999, by Mr. DeLay and 14 original cosponsors. It was referred to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 9, 1999, the bill was referred to the Subcommittee on Asia and the Pacific, which subsequently waived consideration of the measure.

On September 15, 1999, the Subcommittee on Asia and the Pacific held a hearing on "Taiwan, the PRC, and the Taiwan Security Enhancement Act". Testimony was received from the following witnesses: The Honorable Craig Thomas, Chairman of the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs; Ms. Susan Shirk, Deputy Assistant Secretary for East Asian and Pacific

Affairs, U.S. Department of State; Dr. Kurt Campbell, Deputy Assistant Secretary for Asia and Pacific Affairs, U.S. Department of Defense; The Honorable Caspar Weinberger, Chairman, Forbes Magazine; The Honorable R. James Woolsey, Partner, Shea and Gardner; and Dr. David M. Lampton, Director, Chinese Studies, School of Advanced International Studies, Johns Hopkins University.

The Committee on International Relations marked up the bill in open session, pursuant to notice, on October 26, 1999. An amendment in the nature of a substitute was offered by Mr. Gilman on behalf of himself and Mr. Gejdenson. While the amendment in the nature of a substitute was pending, a motion by Mr. Lantos to postpone consideration of the bill until November 29, 1999, was offered and was not agreed to by a record vote of 9 ayes to 30 noes. The amendment in the nature of a substitute was subsequently agreed to by voice vote. A quorum being present, the Committee then agreed to a motion offered by Mr. Burton to report the bill to the House with the recommendation that the bill, as amended, do pass, by record vote of 32 ayes to 6 noes.

RECORD VOTES ON AMENDMENTS AND MOTION TO REPORT

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the committee report.

The following votes developed during the course of the consideration of H.R. 1838:

(October 26, 1999)

Vote No. 1.—on Lantos motion to postpone consideration of the bill until November 29, 1999:

Voting yes: Sanford, Salmon, Houghton, Campbell, Lantos, Ackerman, Delahunt, Meeks and Lee.

Voting no: Gilman, Goodling, Bereuter, Smith, Burton, Ros-Lehtinen, Ballenger, Rohrabacher, Manzullo, Royce, King, Chabot, McHugh, Brady, Burr, Gillmor, Radanovich, Cooksey, Tancredo, Gejdenson, Berman, Brown, Hastings, Danner, Sherman, Wexler, Rothman, Davis, Crowley and Hoeffel.

Total: 9 ayes, 30 noes.

Vote No. 2.—Burton motion to report H.R. 1838, as amended, favorably to the House:

Voting yes: Gilman, Goodling, Bereuter, Smith, Burton, Ros-Lehtinen, Ballenger, Rohrabacher, Manzullo, Royce, King, Chabot, Sanford, Campbell, McHugh, Brady, Burr, Gillmor, Radanovich, Cooksey, Tancredo, Gejdenson, Ackerman, Brown, Danner, Sherman, Wexler, Rothman, Davis, Meeks, Crowley and Hoeffel.

Voting no: Salmon, Houghton, Lantos, Hastings, Delahunt and Lee.

Total: 32 ayes, 6 noes.

OTHER MATTERS

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform Committee pursuant to clause (4)(c)(2) of rule X of those Rules. The Committee on International Relations has received no such findings or recommendations from the Committee on Government Reform.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 1838 as reported by the Committee: Article I, section 8, clause 1 (relating to providing for the common defense and general welfare of the United States); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 1838 is not intended to preempt any state or local law.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Provides that the Act may be cited as the “Taiwan Security Enhancement Act”.

Section 2. Findings

Sets forth findings with respect to relations between and among the United States, the People's Republic of China, and Taiwan.

Section 3. Training of military officers and sale of defense articles and services to Taiwan

Directs the Secretary of Defense and the Secretaries of the military departments to make every effort to reserve additional positions for Taiwan military officers at the National Defense University and other professional military education schools, and for prospective Taiwan military officers at the three U.S. military academies.

Directs the Secretary of Defense, when considering foreign military sales to Taiwan, to take into account the special status of Taiwan, including Taiwan's defense needs in light of the military modernization and weapons procurement efforts of the People's Republic of China, and to make every effort to ensure that Taiwan has full and timely access to price and availability data for defense articles and services.

Section 4. Determinations of defense needs of Taiwan

Directs the President to use funds available to the Department of Defense under the Arms Export Control Act to employ additional technical staff at the American Institute in Taiwan upon the request of the Defense Security Cooperation Agency.

Requires the President to submit an annual report to Congress detailing each of Taiwan's requests for purchase of defense articles and services during the one-year period ending on the date of the report, describing the defense needs asserted by Taiwan as justification for those requests, and describing the decision-making process used to reject, postpone, or modify any such request. The first report under this section is to be submitted 60 days after the conclusion of the next round of arms talks between Taiwan and the United States, and annually thereafter. Such reports are to be submitted in classified and unclassified form. As used in this section the term "next round of arms talks between Taiwan and the United States" refers to the annual dialogue between the United States and Taiwan, typically beginning in November and concluding in April, regarding potential arms sales to Taiwan. The Committee intends for the term "requests for purchase of defense articles and defense services" to encompass not only formal written or oral requests for the purchase of defense articles or defense services, but also instances in which Taiwanese officials make a seemingly hypothetical inquiry regarding whether a particular article or service, if formally requested for purchase, would be approved for sale to Taiwan by the United States.

Section 5. Strengthening the defense of Taiwan

States that any determination of the nature or quantity of defense articles or defense services to be made available to Taiwan that is made on any basis other than section 3(b) of the Taiwan Relations Act would violate the intent of Congress in the enactment of such Act, irrespective of whether such alternative basis is the

August 17, 1982, communique signed with the People's Republic of China, or any similar executive agreement, order, or policy.

Directs the Secretary of Defense to implement a plan for the enhancement of programs and arrangements for operational training and exchanges of senior officers between the armed forces of the United States and the armed forces of Taiwan, for work in threat analysis, doctrine, force planning, operational methods, and other areas. Such implementation shall take place not later than 210 days after the date of enactment. At least 30 days prior to such implementation, the Secretary of Defense shall submit the plan to Congress in classified and unclassified form.

Requires the Secretary of Defense to submit a report to Congress no later than 45 days after the date of enactment, and annually thereafter, on the security situation in the Taiwan Strait. Such reports shall be submitted in classified and unclassified form.

Requires the Secretary of Defense to certify to specified Committees of Congress not later than 180 days after the date of enactment that direct secure communications exist between the armed forces of the United States and the armed forces of Taiwan. As used in this section, the term "direct secure communications" refers to the capability to instantaneously pass information directly back and forth between the armed forces of the United States and of Taiwan, secure from interception by other parties, in a manner that will permit coordination between the two armed forces in the event of a crisis.

Section 6. Report regarding the ability of the United States to respond in Asia-Pacific contingencies that include Taiwan

Requires the Secretary of Defense to prepare and submit to specified Committees of Congress a report on the ability of the United States to respond successfully to a major contingency in the Asia-Pacific region where United States interests in Taiwan are at risk. The report shall be submitted not later than 180 days after the date of enactment and shall be updated as appropriate. The report shall be submitted in classified and unclassified form.